

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

v.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-MV/LFG

RIO CHAMA STREAM SYSTEM
Section 3, Canjilon Creek

Subfile No.: CHCJ-005-0005

**MOTION TO AMEND CONSENT ORDER DESCRIBING
THE WATER RIGHT IN SUBFILE CHCJ-005-0005**

The plaintiff State of New Mexico, *ex rel.* State Engineer (“State”) moves the Court to amend the *Consent Order* entered on December 26, 2001 (Doc. No. 6458) in connection with defendants Benjamin Leyba, David Leyba and Horace Leyba in subfile CHCJ-005-0005, and as grounds therefore plaintiff states:

1. The *Consent Order* entered by the Court on December 26, 2001 for subfile CHCJ-005-0005 describes the location of the X and Y coordinates for the Leyba Ditch as follows:

Point of Diversion:

Ditch Name: LEYBA DITCH

Location X: 1,587,346 feet **Y:** 2,001,379 feet
New Mexico State Plane Coordinate System, Central Zone, 1983 N.A.D.

2. Upon further inspection and review by the State, the above X and Y coordinates for the Leyba Ditch as stated in the December 26, 2001 *Consent Order* are incorrect. Subfile CHCJ-005-0005 is the only subfile connected with the Leyba Ditch affected by this motion.

3. The correct X and Y coordinates for the Leyba Ditch are as follows:

Point of Diversion:

Ditch Name: LEYBA DITCH

Location X: 1,582,753 feet **Y:** 1,983,686 feet
New Mexico State Plane Coordinate System, Central Zone, 1983 N.A.D.

WHEREFORE, the State requests the Court amend the *Consent Order* entered on December 26, 2001 in subfile CHCJ-005-0005 describing irrigation under the Leyba Ditch as described in paragraph 3 above.

Pursuant to the Court's February 4, 2013 *Order* (Doc. No. 10891), the State requests the Clerk of the Court to mail copies of the approved Order requested in this Motion to the parties listed below at the address listed.

Respectfully submitted,

/s/ Ed Newville

EDWARD G. NEWVILLE
Special Assistant Attorney General
Office of State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102
(505) 867-7444

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the _____ day of April, 2014, I filed the foregoing electronically through the CM/ECF system which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served by electronic mail, and served the following non-CM-ECF participants in the manner indicated:

via first class mail, postage prepaid addressed as follows:

CHCJ-005-0005

Benjamin Leyba

David Leyba

Horace Leyba

P.O. Box 463

Canjilon, NM 87515

/s/ Ed Newville

EDWARD G. NEWVILLE